

PT 97-68

Tax Type: PROPERTY TAX

Issue: Religious Ownership/Use

STATE OF ILLINOIS
DEPARTMENT OF REVENUE
OFFICE OF ADMINISTRATIVE HEARINGS
SPRINGFIELD, ILLINOIS

GOD'S SHELTER OF LOVE	)	Docket #	96-58-117
Applicant	)	Docket #	96-58-118
)		
v.	)	Parcel Index #	04-12-10-429-015
	)	Parcel Index #	04-12-10-429-014
THE DEPARTMENT OF REVENUE	)	Barbara S. Rowe	
OF THE STATE OF ILLINOIS	)	Administrative Law Judge	

RECOMMENDATION FOR DISPOSITION

Synopsis:

The hearing in this matter was held to determine whether or not Macon County Parcel Index numbers 04-12-10-429-015 and 04-12-10-429-014 qualified for a property tax exemption during the 1996 assessment year.

Ardena L. Hunter, Administrator of God's Shelter of Love (hereinafter referred to as the "Applicant"), was present and testified on behalf of the applicant.

The issues in this matter include: first, whether the applicant was the owner of the parcels during the 1996 assessment year; secondly, whether the applicant is a charitable organization; and lastly, whether these parcels were used by the applicant for exempt purposes during the 1996 assessment year. Following the submission of all the evidence and a review of the record, it is determined that the

applicant owned the parcels during a portion of the 1996 assessment year. It is also determined that the applicant is a charitable organization. Finally, it is determined that the applicant did not use the parcels in an exempt manner during the 1996 assessment year.

Findings of Fact:

1. The position and jurisdiction of the Illinois Department of Revenue, (hereinafter referred to as the "Department"), that Macon County parcel index numbers 04-12-10-429-014 and 04-12-10-429-015 did not qualify for a property tax exemption in 1996, was established by the admission into evidence of Department's Exhibits numbered 1 through 6. (Tr. p. 12)

2. On December 11, 1996, the Department received from the Macon County Board of Review two applications for property tax exemptions which had been submitted by the applicant. The board recommended that the Department deny the exemptions because the applicant was collecting \$50.00 per month rent on each property. (Dept. Ex. Nos. 1 and 2)

3. On March 20, 1997, the Department issued denials of the requested exemptions, finding that the properties were not in exempt use in 1996. (Dept. Ex. Nos. 3 and 4)

4 The applicant timely protested the denials and requested a hearing on the decisions. (Dept. Ex. No. 5)

5. The hearing on August 7, 1997, was held pursuant to that request. (Dept. Ex. No. 6)

6. On July 18, 1996, the applicant acquired parcel index numbers 04-12-10-429-015 and 04-12-10-429-014 from Frank C. Tyrolt and Bernard L. Naber as partners d/b/a Mercer Rentals. In the warranty

deed, the grantors reserved the right to store personal property on the premises for a period not to exceed six months, for a monthly rent of \$50.00 when so used. (Dept. Grp. Ex. Nos. 1 p. 3; 2 p. 3)

7. The applicant was incorporated under the not for profit corporation act of the State of Illinois on May 31, 1991. (Dept. Grp. Ex. No. 1 p. 10; Dept. Grp. Ex. No. 2 p. 11)

8. The purpose of the applicant is to propagate the Gospel of Jesus Christ, evangelize and disciple, and to maintain and operate a religious corporation. These purposes may be accomplished by the following activities:

Providing crisis intervention in the form of shelter, food, clothing, guidance, linkage to other support service agencies, and a continuum of support from arrival until after departure from the shelter, and any other lawful acts or endeavors which are necessary, appropriate or convenient for the accomplishment of the purposes herein stated, if not inconsistent with the status of a non-profit corporation. (Dept. Grp. Ex. Nos. 1 p. 13; 2 p. 14)

9. Parcel index number 04-12-10-429-015, commonly known as the rear of 1125 N. Church, has a garage on it. (Dept. Grp. Ex. No. 1 p. 5)

10. During the 1996 assessment year, the garage was vacant. (Tr. p. 19)

11. No portion of the garage was used by the prior owner during 1996 and the parcel had nothing to do with the \$50.00 rental agreement between the grantors and the applicant. (Tr. p. 13)

12. Parcel index number 04-12-10-429-014, commonly known as 242 W. Packard, contains a 6800 square foot building. (Dept. Grp. Ex. No. 2 pp. 5,6; Tr. pp. 14-16)

13. The building is unusable for the applicant's purposes because there have been massive roof leaks and damage to the facility. (Tr. pp. 16-18)

14. A small portion of the building, approximately 30 by 40 feet, was used by the prior owner to store equipment until December, 1996. That portion of the building was leased to them for \$50.00 per month until they could remove their equipment. (Tr. pp. 14-16)

15. The building was vacant during 1996, and the applicant put nothing in it. In fact, the applicant did not go inside the building until March, 1997, when they had a clean-up day. (Tr. pp. 19-20)

16. I take administrative notice that the Department granted the applicant a property tax exemption for Macon County parcel index number 12-10-453-022 on December 7, 1995, pursuant to docket number 95-58-16. (Applicant's Ex. No. 1)

17. Parcel index number 12-10-453-022 contains applicant's shelter, where the applicant conducts its missionary work. (Tr. p. 20)

18. The applicant takes in homeless persons and houses, clothes them, and supplies their personal needs. Individuals have stayed at the shelter as long as 14 months. (Tr. p. 22)

19. The applicant lets persons stay in the shelter as long as needed in order to "get them on their feet and make them productive working people." (Tr. p. 22)

20. The applicant collects clothing, furniture, anything except trash that is donated and stores it. When the residents leave the shelter, the applicant gives them furnishings for their new home. (Tr. pp. 16-17)

21. The applicant works with area agencies to try to teach the shelter inhabitants how to live in society and not be on the welfare system. (Tr. pp. 22-23)

22. The applicant is a non-denominational organization whose funds come from donations given by individuals and churches. (Tr. pp. 23-25)

Conclusions of Law:

Article IX, §6 of the Illinois Constitution of 1970, provides in part as follows:

The General Assembly by law may exempt from taxation only the property of the State, units of local government and school districts and property used exclusively for agricultural and horticultural societies, and for school, religious, cemetery and charitable purposes.

Pursuant to the Constitutional enabling provision, the Legislature has enacted Illinois statutes which have provisions for property tax exemptions. In particular, 35 **ILCS** 200/15-65 exempts certain property from taxation, in part, as follows:

All property of the following is exempt when actually and exclusively used for charitable or beneficent purposes, and not leased or otherwise used with a view to profit:
(a) institutions of public charity;

It is well settled in Illinois that when a statute purports to grant an exemption from taxation, the tax exemption provision is to be construed strictly against the one who asserts the claim of exemption. International College of Surgeons v. Brenza, 8 Ill.2d 141 (1956) Whenever doubt arises, it is to be resolved against exemption and in favor of taxation. People ex. rel. Goodman v. University of Illinois Foundation, 388 Ill. 363 (1941) Further, in ascertaining whether or

not a property is statutorily tax exempt, the burden of establishing the right to the exemption is on the one who claims the exemption.

MacMurray College v. Wright, 38 Ill.2d 272 (1967)

The applicant was granted a property tax exemption for its shelter pursuant to docket number 95-58-16. This fact establishes that the Department has determined that the applicant is a charitable organization. Therefore, the only question before me is the uses of the parcels in question in 1996, during the period that the applicant owned the property. The applicant testified that building on parcel number 04-12-10-429-014 was vacant during 1996 and the applicant put nothing in it. In fact, the applicant did not go inside the building until March, 1997, when they had a clean-up day. The applicant also testified that the garage on parcel index number 04-12-10-429-015 was not used in 1996.

The applicant was paid \$50.00 rent by the prior owners for the storage of equipment in a small portion of the building on parcel index number 04-12-10-429-014 for the period of July through December. That fact, coupled with the fact that the building and the garage were vacant and unused by the applicant during 1996, is determinative.

The Illinois Appellate Court found that a church owned building which was not used for any purpose and was boarded up during the taxable years in question did not qualify for a property tax exemption for those years. Antioch Missionary Baptist Church v. Rosewell, 119 Ill.App.3d 981 (1st Dist. 1983)

Based upon the above, I find that Macon County Parcel Index numbers 04-12-10-429-014 and 04-12-10-429-015 did not qualify for a property tax exemption for the 1996 assessment year. It is

unfortunate, because the applicant does undeniably wonderful work for the community. However, the law is clear that vacant buildings do not qualify for property tax exemptions.

I therefore recommend that Macon County parcel index numbers 04-12-10-429-014 and 04-12-10-429-015 remain on the tax rolls for the 1996 assessment year. I also recommend that they be assessed to the applicant for the period that the applicant owned them, from July 18, 1996, through December 31, 1996, or for 46% of the assessment year.

Respectfully Submitted,

Barbara S. Rowe
Administrative Law Judge

December 16, 1997